

Workers' Compensation in Montana: The State of the Market

The Competitive Three-way System.

As presented by the State Auditor, Montana is known as a competitive workers' compensation system – i.e. not a state monopolistic system where all employers must insure through a state created entity. Rather, employers are allowed to self-insure, or purchase workers' compensation insurance from private carriers or Montana State Fund ("MSF").

In 1989, in the midst of a workers' compensation crisis resulting from unfunded liabilities of the then existing and state agency state fund, Montana State Fund (MSF), or New Fund, was created as a domestic mutual insurance company which offered employers an option for workers' compensation insurance. See, 39-71-2311, MCA (1989). Unable to address the significant unfunded liabilities of the predecessor state fund, the legislature in a 1990 Special Session rescinded the mutual status of MSF, yet maintained its structure as an independent, non-profit public corporation serving both a competitive and guaranteed market responsibility.

Insurers Participating in the Montana Market

As of 2016 there were 27 insurers writing at least \$1M in workers' compensation insurance in Montana.

Companies Writing \$1M>

Insurance Statutory Market Share Report												
Industr Property and Casualty Lines cWorkers' Compensation States Montana CompaTop-level view (SNL Groups/Unaffiliated Individuals)												
2016 Rank	Stat Entity Key	Entity *	2016 Company Level Data Data is updated for completed mergers			Market Share (%)						
			Assets (\$000)	Capital & Surplus (\$000)	National Direct Premiums Written	2016	2015	2014	2013	2012	2011	2010
		TOTALS	1,876,534,295	712,199,696	613,383,327	100.00	100.00	100.00	100.00	100.00	100.00	100.00
1	C8978	Montana State Fund	1,664,042	526,466	177,018	61.60	61.18	60.73	60.91	59.31	61.91	60.24
2	GP4086292	Liberty MHC Inc. (SNL P&C Group)	73,767,644	20,132,195	32,217,215	5.70	7.23	6.89	9.57	13.76	14.53	14.99
3	C6193	Victory Insurance Co.	13,997	5,280	11,004	3.83	3.96	3.89	3.65	2.63	1.70	1.77
4	GP4043916	AmTrust Financial Services (SNL P&C	8,162,916	2,075,638	6,203,636	3.79	3.94	3.48	2.33	1.85	1.58	1.84
5	GP4055530	Travelers Companies Inc. (SNL P&C Group)	76,191,972	20,249,363	23,918,048	3.22	3.30	3.92	3.86	3.37	2.52	2.46
6	GP103647	Hartford Financial Services (SNL P&C Group)	42,733,764	14,290,024	11,276,973	3.02	2.24	2.04	2.11	2.14	2.04	2.43
7	GP4042156	Zurich Insurance Group (SNL P&C Group)	32,728,846	7,550,049	12,861,190	2.88	3.20	4.09	3.03	2.85	3.22	3.35
8	GP4142896	Employers Holdings Inc. (SNL P&C Group)	2,973,829	828,691	690,958	2.75	2.87	2.79	3.05	2.56	2.19	1.89
9	GP103330	American International Group (SNL P&C	93,306,064	22,033,736	15,552,195	2.03	1.73	2.44	2.25	2.76	2.83	4.39
10	GP4166287	Western National Insurance Grp (SNL P&C	1,344,002	487,163	644,891	1.26	1.26	1.06	0.99	0.44	0.00	0.00
11	GP103417	Chubb Ltd. (SNL P&C Group)	63,694,490	17,836,827	20,786,847	1.14	1.05	1.05	1.08	1.29	1.18	1.70
12	C229	Associated Loggers Exchange	35,300	14,088	13,269	0.92	0.98	1.00	0.93	0.89	0.69	0.56
13	GP103577	Arch Capital Group Ltd. (SNL P&C Group)	9,517,487	2,778,435	3,566,296	0.71	0.70	0.72	0.78	0.26	0.42	0.13
14	GP13853	Sentry Insurance a Mutual Co. (SNL P&C	9,933,120	4,758,757	2,128,736	0.63	0.32	0.33	0.32	0.04	0.26	0.18
15	GP103336	W. R. Berkley Corp. (SNL P&C Group)	19,331,408	5,495,602	5,715,451	0.63	0.61	0.52	0.46	0.31	0.14	0.03
16	GP103404	XL Group Ltd (SNL P&C Group)	9,983,499	2,362,827	4,557,307	0.62	0.51	0.38	0.27	0.62	0.31	0.28
17	GP103407	Old Repub International Corp. (SNL P&C	11,686,281	3,550,829	3,868,379	0.56	0.25	0.19	0.33	0.11	0.43	0.19
18	GP103462	Berkshire Hathaway Inc. (SNL P&C Group)	259,377,802	137,193,702	33,300,439	0.55	0.52	0.25	0.27	0.12	0.14	0.06
19	GP4310994	Farmers Insurance Group of Cos (SNL P&C	28,545,730	5,677,223	19,677,601	0.52	0.44	0.46	0.52	0.45	0.54	0.61
20	GP103424	American Financial Group Inc. (SNL P&C	11,527,058	2,932,720	5,567,163	0.39	0.37	0.35	0.23	0.20	0.05	0.07
21	GP11978	Church Mutual Insurance Co. (SNL P&C	1,782,053	695,487	690,541	0.37	0.37	0.33	0.20	0.07	0.00	0.00

Rates

All insurers, *including MSF* must utilize the National Council on Compensation Insurance (NCCI) "loss costs" as approved by the Montana Commissioner of Securities and Insurance as the starting point for rates they charge customers. See, 33-16-1026, MCA. Insurers add individual provisions for profit, contingencies, taxes, and other expenses of operations in their filed rates, known as a "loss cost modifier" ("LCM"). Rates filed by all insurance companies writing workers' compensation must not be "excessive, inadequate or unfairly discriminatory." 33-16-1021, MCA. An insurance company can file deviations from NCCI loss costs but only as supported by specific factors outlined in the Insurance Code. See, 33-16-1021, MCA. By law, MSF must establish rates that are more than likely, not less than likely, to cover costs. 39-71-2311, MCA.

Risk-Based Capital Requirements

All insurers, *including MSF*, must maintain adequate capital sufficient to support the obligations of the company and provide regulators with information that trigger specific regulatory actions if a company is at risk of insolvency. See, 33-2-1901, MCA et seq. MSF specifically has a higher risk-based capital requirement than private insurers to provide even earlier regulatory warning of impaired capital.

Service

All insurers are required to provide the benefits prescribed by the Montana Workers Compensation Act. Title 39, Chapter 71. As such, the Department of Labor and Industry regulates and enforces the statutes, rules and practices of all insurers in the administration and payment of workers' compensation claims.

Montana State Fund employs approximately 300 staff to issue and maintain insurance policies for approximately 25,000 Montana businesses. Services include policy administration, safety management consultation, claims administration, financial and regulatory compliance, legal and fraud detection services necessary for providing all customers timely, professional and high quality service.

In-house claims adjustment services permit consistent, cost-effective, service to injured workers and employers throughout Montana. Twelve dedicated safety management consultants provide on-site service to any customer requesting safety services. In addition, MSF conducts approximately 65 safety seminars throughout Montana each year that are open to *all* employers regardless of whether they insure with MSF. These services augment an aggressive state-wide media campaign designed to improve the Montana safety culture in order to assist employers and employees in reducing workplace accidents.

Dividends

The role and effective of MSF's dividend program cannot be discounted since it serves to reinforce a safety culture in Montana by returning to employers with good safety records a portion of equity considered unnecessary by the board of directors and consulting actuary in ensuring MSF's long-term financial health. Dividends cannot be guaranteed but are subject to annual review by MSF's board of directors. Importantly, dividends are returned to policyholders who paid premium to MSF. Since 1999 MSF has returned \$216M to policyholders.

Premium Tax

All insurers, *except MSF (See, 33-1-115, MCA)*, pay 2.75% premium tax on net business written in the state. 33-2-705, MCA. MSF has been exempt from paying premium taxes due to serving the role of the "guaranteed market" and being unable to decline specific businesses or risk classes.